

SUBJECT: DWI rehabilitation program

COMMITTEE: Criminal Jurisprudence: favorable, without amendment

VOTE: 6 ayes--Cofer, Hernandez, Browder, Burnett, Jones, T. Smith  
0 nays  
0 present, not voting  
5 absent--Nabers, Hudson, Maloney, Uher, Waldrop

WITNESSES: For--Ross Newby, executive director, Texas Commission on  
Alcoholism; George R. Gustafson, executive director,  
Texas Safety Association.

Against--None

SENATE VOTE: 30 ayes, 0 nays

BACKGROUND: A first conviction for driving while intoxicated (DWI) is a misdemeanor under VACS art. 6701L-1. VACS art. 6687b, Section 24, requires that upon final conviction for DWI, an offender's driver's license be suspended automatically for one year, the only exception being grant of a special "occupational" license. The Legislature in 1979 changed the misdemeanor probation law (Vernon's Ann. C. C. P., art. 42.13) to correspond with felony probation procedures. Until that change, probation in misdemeanor cases was not considered "final conviction" unless probation was revoked. The Attorney General ruled that misdemeanor probation is a "final conviction," and thus an offender's driver's license must be suspended. Other, more cumbersome, alternatives to probation are allowed without license suspension, such as reduction to a charge of public intoxication, or "deferred adjudication," in which no actual conviction is recorded unless the terms of probation are violated. But deferred adjudication is a limited procedure, and it is highly questionable whether any fine may be assessed.

The 1979 change in art. 42.13 specifically said that in DWI cases a court may require attendance in a rehabilitation education program as a condition of probation.

DIGEST: SB 368 would change the Texas misdemeanor probation law to set special conditions in DWI cases. A jury that recommended probation in a DWI case could also recommend that the offender's driver's license not be suspended. If a person was put on probation for DWI, the judge would have to require that the defendant complete a DWI rehabilitation program. The judge could waive the requirement upon a showing of good cause. Persons who successfully completed the course would be ineligible to attend again for a subsequent offense. Upon successful completion of the program, no report of the offense would be sent to the Department of Public Safety, but a record that the defendant attended the program would be kept in order to deter-

DIGEST

(continued): mine future eligibility for the program. An offender's driver's license would not be suspended if the court required or specifically waived attendance at the program. If the offender failed to complete the program, the driver's license would be automatically suspended, and the offense would be recorded at the DPS.

SUPPORTERS

SAY: SB 368 would restore the discretion allowed in the law prior to 1979 to grant probation in first-offense DWI cases without automatic license suspension. The Legislature did not really intend that anyone granted probation for DWI should automatically have their license suspended for one year; that punishment was meant to be used in more serious cases.

Rather than simply restore prior law, SB 368 would instead require as a probation condition in DWI cases that the offender successfully complete a rehabilitation course. These courses have proved very successful, with an extremely low recidivism rate. Such a program developed jointly by all of the agencies in Texas concerned both with alcoholism and driver safety, would recognize that severe punishment for a first DWI offense would not solve the problem. A study prepared for the national Highway Traffic Safety Administration determined that it is the problem drinkers, not the occasional social drinkers, who cause a disproportionately high number of fatal accidents. Harsh penalties for first offense DWI would not deter these persons, but requiring that they successfully complete a rehabilitation course may well prevent future offenses. Such a required course would ultimately save more lives and money in the future than a fine, jail time, or automatic license suspension for a first offense.

OPPONENTS

SAY: No apparent opposition.

NOTES:

SB 368 is substantially the same as HB 359 by Salinas.